

Introduced by Senator Yee
(Coauthor: Senator Calderon)
(Coauthors: Assembly Members Beall and Portantino)

December 6, 2010

An act to amend Sections 72670, 72670.5, and 89901 of, and to add Section 92034 to, the Education Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 8, as introduced, Yee. Public records: auxiliary organizations.

The California Public Records Act requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee unless those records are exempt from disclosure.

This bill would require specified entities to comply with the act, but would not require these entities to disclose information obtained in the process of soliciting potential donors that has actual or potential independent economic value because it is not generally known to the public or because the individuals can obtain economic value from its disclosure or use. The bill would exempt from disclosure the names, addresses, and telephone numbers of persons who volunteer services or donate to specified entities if those persons request anonymity. However, the bill would provide that this exemption does not apply if a volunteer or donor meets specified conditions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 72670 of the Education Code is amended to read:

72670. (a) The governing board of a community college district may establish auxiliary organizations for the purpose of providing supportive services and specialized programs for the general benefit of its college or colleges. As used in this article, “auxiliary organization” may include, but is not limited to, the following entities:

(a)

(1) Any entity in which any official of a community college district participates as a director as part of his or her official position.

(b)

(2) Any entity formed or operating pursuant to Article 4 (commencing with Section 76060) of Chapter 1 of Part 47.

(c)

(3) Any entity ~~which~~ *that* operates a commercial service for the benefit of a community college or district on a campus or other property of the district.

(d)

(4) Any entity whose governing instrument provides in substance both of the following:

(A)

Its purpose is to promote or assist a community college or district, or to receive gifts, ~~property property~~, and funds to be used for the benefit of the community college or district or any person or organization having an official relationship ~~therewith~~ *with the community college or district*.

(B)

Any of its directors, governors, or trustees are either appointed or nominated by, or subject to, the approval of the governing board of the district, an official of the district, or selected, ex officio, from the membership of the student body or the faculty or the governing board or the administrative staff of the district.

(e)

(5) Any entity ~~which~~ *that* is designated as an auxiliary organization by the district governing board.

1 ***(b) An entity described in paragraph (2), (4), or (5) of***
2 ***subdivision (a) shall comply with Chapter 3.5 (commencing with***
3 ***Section 6250) of Division 7 of Title 1 of the Government Code.***

4 ***(c) Chapter 3.5 (commencing with Section 6250) of Division 7***
5 ***of Title 1 of the Government Code shall not require an entity***
6 ***described in subdivision (a) to disclose information obtained in***
7 ***the process of soliciting potential donors that has actual or***
8 ***potential independent economic value because it is not generally***
9 ***known to the public or because individuals can obtain economic***
10 ***value from its disclosure or use.***

11 ***(d) This section shall not require an entity described in***
12 ***subdivision (a) to disclose information that is exempt from***
13 ***disclosure pursuant to Section 99040 of this code, Section 3426.1***
14 ***of the Civil Code, Section 1060 of the Evidence Code, or***
15 ***subdivision (k) of Section 6254 of the Government Code.***

16 ***(e) (1) This section shall not require the disclosure of the name,***
17 ***address, or telephone number of a person who volunteers his or***
18 ***her services or donates to an entity described in subdivision (a),***
19 ***if that person requests anonymity.***

20 ***(2) Paragraph (1) does not apply if the volunteer or donor is a***
21 ***member of the governing board of an entity described in***
22 ***subdivision (a).***

23 ***(3) Paragraph (1) does not apply if the volunteer or donor, in***
24 ***a quid pro quo arrangement, receives anything that has a value***
25 ***of five hundred dollars (\$500) or more in exchange for the services***
26 ***or donation.***

27 **SEC. 2.** Section 72670.5 of the Education Code is amended to
28 **read:**

29 **72670.5. (a)** The Board of Governors of the California
30 **Community Colleges may establish auxiliary organizations for the**
31 **purpose of providing supportive services and specialized programs**
32 **for the general benefit of the mission of the California Community**
33 **Colleges.**

34 **(b)** As used in this article:

35 **(1) “Auxiliary organization” may include, but is not limited to,**
36 **the following entities:**

37 **(A) Any entity whose governing instrument provides in**
38 **substance both of the following:**

39 **(i) That its purpose is to promote or assist the Board of**
40 **Governors of the California Community Colleges, or to receive**

1 gifts, property, and funds to be used for the benefit of the Board
2 of Governors of the California Community Colleges or any person
3 or organization having an official relationship ~~therewith~~ *with the*
4 *Board of Governors of the California Community Colleges.*

5 (ii) That any of its directors, governors, or trustees are either
6 appointed or nominated by, or subject to, the approval of the Board
7 of Governors of the California Community Colleges or an official
8 of the California Community Colleges, or selected, ex officio,
9 from the membership of the Board of Governors or the
10 administrative staff of the California Community Colleges.

11 (B) Any entity ~~which~~, *that*, exclusive of the foregoing
12 subdivisions of this section, is designated as an auxiliary
13 organization by the Board of Governors of the California
14 Community Colleges.

15 (2) “District governing board” includes the Board of Governors
16 of the California Community Colleges, unless the context requires
17 otherwise.

18 (c) Any agreement between the Board of Governors of the
19 California Community Colleges and an auxiliary organization
20 established pursuant to this section shall provide for full
21 reimbursement from the auxiliary organization to the Board of
22 Governors of the California Community Colleges for any services
23 performed by the employees of the board under the direction of,
24 or on behalf of, the auxiliary organization.

25 (d) *An entity described in paragraph (1) of subdivision (b) shall*
26 *comply with Chapter 3.5 (commencing with Section 6250) of*
27 *Division 7 of Title 1 of the Government Code.*

28 (e) *Chapter 3.5 (commencing with Section 6250) of Division 7*
29 *of Title 1 of the Government Code shall not require an entity*
30 *described in paragraph (1) of subdivision (b) to disclose*
31 *information obtained in the process of soliciting potential donors*
32 *that has actual or potential independent economic value because*
33 *it is not generally known to the public or because individuals can*
34 *obtain economic value from its disclosure or use.*

35 (f) *It is not the intent of the Legislature in enacting subdivision*
36 *(d) to designate an organization described in paragraph (1) of*
37 *subdivision (b) as a state agency.*

38 (g) *This section shall not require an entity described in*
39 *paragraph (1) of subdivision (b) to disclose information that is*
40 *exempt from disclosure pursuant to Section 99040 of this code,*

1 *Section 3426.1 of the Civil Code, Section 1060 of the Evidence*
2 *Code, or subdivision (k) of Section 6254 of the Government Code.*

3 *(h) (1) This section shall not require the disclosure of the name,*
4 *address, or telephone number of a person who volunteers his or*
5 *her services or donates to an entity described in paragraph (1) of*
6 *subdivision (b), if that person requests anonymity.*

7 *(2) Paragraph (1) does not apply if the volunteer or donor is a*
8 *member of the governing board of an entity described in paragraph*
9 *(1) of subdivision (b).*

10 *(3) Paragraph (1) does not apply if the volunteer or donor, in*
11 *a quid pro quo arrangement, receives anything that has a value*
12 *of five hundred dollars (\$500) or more in exchange for the services*
13 *or donation.*

14 SEC. 3. Section 89901 of the Education Code is amended to
15 read:

16 89901. (a) As used in this article, the term “auxiliary
17 organization” includes the following entities:

18 ~~(a)~~

19 *(1) Any entity in which any official of the California State*
20 *University participates as a director as part of his or her official*
21 *position.*

22 ~~(b)~~

23 *(2) Any entity formed or operating pursuant to Article 1*
24 *(commencing with Section 89300) of Chapter 3.*

25 ~~(c)~~

26 *(3) Any entity ~~which~~ that operates a commercial service for the*
27 *benefit of a campus of the California State University on a campus*
28 *or other property of the California State University.*

29 ~~(d)~~

30 *(4) Any entity whose governing instrument provides in substance*
31 *both of the following:*

32 ~~(1)~~

33 *(A) That its purpose is to promote or assist any campus of the*
34 *California State University, or to receive gifts, property, and funds*
35 *to be used for the benefit of ~~such~~ that campus or any person or*
36 *organization having an official relationship ~~therewith~~ with the*
37 *campus.*

38 ~~(2)~~

39 *(B) That any of its directors, governors, or trustees are either*
40 *appointed or nominated by, or subject to, the approval of an official*

1 of any campus of the California State University, or selected, ex
2 officio, from the membership of the student body or the faculty or
3 the administrative staff of campus.

4 ~~(e)~~

5 (5) Any entity whose governing instrument provides in substance
6 both of the following:

7 ~~(1)~~

8 (A) That its purpose is to promote or assist the ~~trustees~~ *Trustees*
9 of the California State University, or to receive gifts, property, and
10 funds to be used for the benefit of the ~~trustees~~ *Trustees* of the
11 California State University or any person or organization having
12 an official relationship ~~therewith~~ *with the Trustees of the California*
13 *State University*.

14 ~~(2)~~

15 (B) That any of its directors, governors, or trustees are either
16 appointed or nominated by, or subject to, the approval of the
17 trustees or an official of the California State University, or selected,
18 ex officio, from the membership of the trustees or the
19 administrative staff of the California State University.

20 ~~(f)~~

21 (6) Any entity ~~which~~, *that*, exclusive of the foregoing
22 subdivisions of this section, is designated as an auxiliary
23 organization by the trustees.

24 *(b) An entity described in paragraph (2), (4), (5), or (6) of*
25 *subdivision (a) shall comply with Chapter 3.5 (commencing with*
26 *Section 6250) of Division 7 of Title 1 of the Government Code.*

27 *(c) Chapter 3.5 (commencing with Section 6250) of Division 7*
28 *of Title 1 of the Government Code shall not require an entity*
29 *described in subdivision (a) to disclose information obtained in*
30 *the process of soliciting potential donors that has actual or*
31 *potential independent economic value because it is not generally*
32 *known to the public or because individuals can obtain economic*
33 *value from its disclosure or use.*

34 *(d) It is not the intent of the Legislature in enacting subdivision*
35 *(b) to designate an organization described in paragraph (2), (4),*
36 *(5), or (6) of subdivision (a) as a state agency.*

37 *(e) This section shall not require an entity described in*
38 *subdivision (a) to disclose information that is exempt from*
39 *disclosure pursuant to Section 99040 of this code, Section 3426.1*

1 *of the Civil Code, Section 1060 of the Evidence Code, or*
2 *subdivision (k) of Section 6254 of the Government Code.*

3 *(f) (1) This section shall not require the disclosure of the name,*
4 *address, or telephone number of a person who volunteers his or*
5 *her services or donates to an entity described in subdivision (a),*
6 *if that person requests anonymity.*

7 *(2) Paragraph (1) does not apply if the volunteer or donor is a*
8 *member of the governing board of an entity described in*
9 *subdivision (a).*

10 *(3) Paragraph (1) does not apply if the volunteer or donor, in*
11 *a quid pro quo arrangement, receives anything that has a value*
12 *of five hundred dollars (\$500) or more in exchange for the services*
13 *or donation.*

14 SEC. 4. Section 92034 is added to the Education Code, to read:
15 92034. (a) As used in this article, the term “auxiliary
16 organization” includes the following entities:

17 (1) An entity in which an official of the University of California
18 participates as a director as part of his or her official duties.

19 (2) An entity that operates a commercial service for the benefit
20 of a campus of the University of California on a campus or other
21 property of the University of California.

22 (3) An entity whose governing instrument provides in substance
23 both of the following:

24 (A) That its purpose is to promote or assist any campus of the
25 University of California, or to receive gifts, property, and funds
26 to be used for the benefit of that campus or any person or
27 organization having an official relationship with the campus.

28 (B) That any of its directors, governors, or trustees are either
29 appointed or nominated by, or subject to the approval of, an official
30 of any campus of the University of California, or serve, ex officio,
31 from the membership of the student body or the faculty or the
32 administrative staff of a campus.

33 (4) Any entity whose governing instrument provides in substance
34 both of the following:

35 (A) That its purpose is to promote or assist the Regents of the
36 University of California, or to receive gifts, property, and funds
37 to be used for the benefit of the Regents of the University of
38 California, or any person or organization having an official
39 relationship with the Regents of the University of California.

1 (B) That any of its directors, governors, or trustees are either
2 appointed or nominated by, or subject to, the approval of the
3 regents or an official of the University of California, or serve, ex
4 officio, from the membership of the regents or the administrative
5 staff of the University of California.

6 (5) An entity that is designated by the regents as an auxiliary
7 organization of the University of California.

8 (b) An entity described in paragraph (3), (4), or (5) of
9 subdivision (a) shall comply with Chapter 3.5 (commencing with
10 Section 6250) of Division 7 of Title 1 of the Government Code.

11 (c) Chapter 3.5 (commencing with Section 6250) of Division 7
12 of Title 1 of the Government Code shall not require an entity
13 described in subdivision (a) to disclose information obtained in
14 the process of soliciting potential donors that has actual or potential
15 independent economic value because it is not generally known to
16 the public or because individuals can obtain economic value from
17 its disclosure or use.

18 (d) It is not the intent of the Legislature in enacting subdivision
19 (b) to designate an organization described in paragraph (3), (4),
20 or (5) of subdivision (a) as a state agency.

21 (e) This section shall not require an entity described in
22 subdivision (a) to disclose information that is exempt from
23 disclosure pursuant to Section 99040 of this code, Section 3426.1
24 of the Civil Code, Section 1060 of the Evidence Code, or
25 subdivision (k) of Section 6254 of the Government Code.

26 (f) (1) This section shall not require the disclosure of the name,
27 address, or telephone number of a person who volunteers his or
28 her services or donates to an entity described in subdivision (a),
29 if that person requests anonymity.

30 (2) Paragraph (1) does not apply if the volunteer or donor is a
31 member of the governing board of an entity described in
32 subdivision (a).

33 (3) Paragraph (1) does not apply if the volunteer or donor, in a
34 quid pro quo arrangement, receives anything that has a value of
35 five hundred dollars (\$500) or more in exchange for the services
36 or donation.

37 SEC. 5. It is the intent of the Legislature in enacting this act
38 to construe and clarify the meaning and effect of existing law and
39 to reject the court's interpretation of state law regarding the
40 application of the California Public Records Act (Chapter 3.5

1 (commencing with Section 6250) of Division 7 of Title 1 of the
2 Government Code) to auxiliary organizations, such as the
3 California State University, Fresno Association, at issue in
4 California State University, Fresno Assn., Inc. v. Superior Court
5 (2001) 90 Cal.App.4th 810.

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